

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

TENET HEALTHSYSTEM GB, INC. d/b/a	:
ATLANTA MEDICAL CENTER,	:
	:
Plaintiff,	:
	:
	:
v.	:CIVIL ACTION
	:FILE NO.:
SPECIALTIES & PAPER PRODUCTS	:1:13-cv-00765-CC
UNION NO. 527 HEALTH AND WELFARE	:
FUND,	:
	:
	:
Defendant.	:

**DEFENDANT SPECIALTIES & PAPER PRODUCTS
UNION NO. 527 HEALTH AND WELFARE
FUND'S AMENDED INITIAL DISCLOSURES**

**Pursuant to Fed. R. Civ. P. (a)(1) and Local Rule 26.1, the defendant
makes the following initial disclosures subject to the defendant's right
to supplement these responses when additional information is available.**

(1) If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service of an amended summons and complaint reflecting the information furnished in this disclosure response.

**RESPONSE: This defendant is properly identified in the
Complaint.**

(2) Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention.

RESPONSE: N/A.

(3) Provide a detailed factual basis for the defense or defenses and any counterclaims or cross claims asserted by defendant in the responsive pleading.

RESPONSE: The patient was admitted to Atlanta Medical Center ("AMC") for post-operative wound infection after receiving a total hip replacement at the hospital in the previous month. The patient had respiratory arrest and intubation was performed. The patient was admitted to ICU for respiratory failure and pneumonia. Sepsis was suspected as a result of the hip wound infection. The patient's respiratory status deteriorated and AMC removed the infected hip prostheses. The patient developed septic shock and died a short time later.

After review of the patient's medical records Defendant determined that the patient's post-surgery deterioration was due to a surgical mistake and the Fund is not liable for these "never event" charges. Defendant notified the patient's spouse and AMC of the claims' denial. On February 10, 2012, AMC submitted correspondence to

Defendant appealing the denial of the claims, to which Defendant responded that, pursuant to the Plan, appeals must be made by the claimant/patient only. No appeal was ever submitted by the patient's family or beneficiaries.

(4) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which defendant contends are applicable to this action.

RESPONSE: ERISA, 29 U.S.C. § 1001 *et seq.*

(5) Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information.

RESPONSE:

(a) **Ralph Meers, P. O. Box 641, Mableton, GA 30126; 770-944-7348. Mr. Meers has knowledge of the Fund's administration and is Chairman of the Board of Trustees for Specialties & Paper Products Union No. 527 Health and Welfare Fund.**

(b) **Debra Bailey, Administrative Manager, P. O. Box 641, Mableton, GA 30126; 770-944-7348. Ms. Bailey is the administrator of the Specialties & Paper Products Union No. 527 Health and Welfare Fund and has knowledge of the Fund's administration of the patient's benefits.**

(c) Irvin Monfort, 475 Elbridge Drive, Atlanta, GA 30318; 404-399-8749. Mr. Monfort may have information with regard to his wife's illness and her eligibility under the Plan.

(c) Additional witnesses identified by the parties or subsequently discovered.

(6) Provide the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed. R. Civ. P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule.

RESPONSE: At this time, this defendant has not identified any persons who may be used at trial to present evidence as an expert. This response will be supplemented as necessary.

(7) Provide a copy of, or description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use to support your claims or defenses unless solely for impeachment, identifying the subjects of the information.

RESPONSE: SEE ATTACHMENT "C."

(8) In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or describe by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying under Fed. R. Civ. P. 34.

RESPONSE: Does not apply.

(9) If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address, and telephone number of such person or entity and describe in detail the basis of such liability.

RESPONSE: Does not apply.

(10) Attach for inspection and copying as under Fed. R. Civ. P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments to satisfy the judgment.

RESPONSE: The Defendant will provide a copy of their insurance policy with State National Insurance Company which is administered by Union Labor Life Insurance Company (ULLICO).

Respectfully submitted,

/s/NORMAN J. SLAWSKY
Norman J. Slawsky
Georgia Bar No. 652225
Tessa A. Warren
Georgia Bar No. 435157

Quinn, Connor, Weaver, Davies & Rouco LLP

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CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2013, I filed the Defendant
Specialties & Paper Products Union No. 527 Health and Welfare Fund's
Amended Initial Disclosures with the Clerk of Court using the CM/ECF
system which will automatically send email notification of such filing to the
following attorneys of record:

Corin M. McCarthy, Esq.
Theresa D. Beaton, Esq.
Kilpatrick Townsend & Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4528

I hereby certify that I have mailed by United States Postal Service the
document to the following non-CM/ECF participants:

/s/ NORMAN J. SLAWSKY
Norman J. Slawsky

1. Letter from Specialties & Paper Products Union No. 527 Health and Welfare Fund to Atlanta Medical Center dated April 1, 2011 requesting detailed information on claim for patient.
2. Patient explanation of benefits from Specialties & Paper Products Union No. 527 Health and Welfare Fund dated February 25, 2011.
3. Patient explanation of benefits from Specialties & Paper Products Union No. 527 Health and Welfare Fund dated April 12, 2011.
4. Patient explanation of benefits from Specialties & Paper Products Union No. 527 Health and Welfare Fund dated April 26, 2011 with detail medical information.
5. Letter from Specialties & Paper Products Union No. 527 Health and Welfare Fund to Atlanta Medical Center dated January 25, 2012 explaining AMC's right to appeal denial of benefits.
6. Letter from Atlanta Medical Center d/b/a Tenet to Specialties & Paper Products Union No. 527 Health and Welfare Fund dated February 10, 2012 regarding denial of patient's medical bill for services from February 24, 2011 to March 23, 1011.
7. Letter from Specialties & Paper Products Union No. 527 Health and Welfare Fund to Atlanta Medical Center dated February 10, 2012 regarding the denial of benefits for patient and explanation of right to appeal by third party.
8. Letter from Specialties & Paper Products Union No. 527 Health and Welfare Fund to Atlanta Medical Center dated August 3, 2012 requesting a refund on overpayment of patient medical bill.
9. Itemized patient account statement for medical services at Atlanta Medical Center from February 24, 2011 through March 23, 2011.
10. Beech Street Claims Payment Advice for patient for medical services at AMC from February 24, 2011 through March 23, 2011.
11. Patient medical records from AMC from February 24, 2011 through March 23, 2011.

ATTACHMENT "C"